

Water Quality Act
Overview
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The Water Quality Act is the primary basis for water quality protection in the state of Montana. In addition to the actual contents of the act, it provides authority for the surface water and groundwater standards (17.30.601 and 17.30.1001 respectively), the mixing zone rules (17.30.501), the nondegradation rules (17.30.701) and the subdivision/on-site subsurface waste water treatment rules (17.36.901 et seq.).

This overview presents selected highlights of the act. You should consult the act itself or the rules derived from the act for details.

Although there are many definitions in the act (75-5-103) those listed below are of particular importance.

- "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
- "High-quality waters" means all state waters, except:
 - (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
 - (b) surface waters that:
 - (i) are not capable of supporting any one of the designated uses for their classification; or (ii) have zero flow or surface expression for more than 270 days during most years.
- "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.
- "Outstanding resource waters" means:
 - (a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or
 - (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.
- "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.
- "State waters" means a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to: (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

- (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

The act gives the acceptable risk levels for carcinogens (75-5-303), the significance levels for nitrate in ground water (75-5-303), and it provides for short term authorizations to exceed water quality standards (75-5-308 and 75-5-316).

- Acceptable risk levels for carcinogens are 1 excess case per 100,000 for all carcinogens except arsenic (1/1000)
- changes of nitrate as nitrogen in ground water are nonsignificant if the discharge will not cause degradation of surface water and the predicted concentration of nitrate as nitrogen at the boundary of the ground water mixing zone does not exceed: (i) 7.5 milligrams per liter from sources other than sewage;
 - (ii) 5.0 milligrams per liter from sewage discharged from a system that does not use level two treatment in an area where the ground water nitrate as nitrogen is 5.0 milligrams per liter or less;
 - (iii) 7.5 milligrams per liter from sewage discharged from a system using level two treatment, which must be defined in the rules; or
 - (iv) 7.5 milligrams per liter from sewage discharged from a system in areas where the ground water nitrate as nitrogen level exceeds 5.0 milligrams per liter primarily from sources other than human waste.
- The department may, if necessary, authorize short-term exemptions from the water quality standards for emergency remediation activities that have been approved, authorized, or required by the department; and application of a pesticide that is registered by the United States environmental protection agency pursuant to 7 U.S.C. 136(a) when it is used to control nuisance aquatic organisms or to eliminate undesirable and nonnative aquatic species.
- The department may authorize the suspension of the numeric standards for turbidity for a particular activity so that only the narrative standards for turbidity apply for that activity
- The act lists some activities that are excluded from nondegradation review (75-5-317). These are mostly related to impacts to ground water. The provisions dealing with temporary standards are listed in 75-5-316. The act also lists the activities that are prohibited (75-5-401) and provides it is not always necessary to treat wastes (75-5-306).

It is unlawful to: Cause pollution, violate any provision set forth in a permit or stipulation, site and construct a sewage lagoon less than 500 feet from an existing water well, or cause degradation of state waters without authorization pursuant to 75-5-303.

Except for the permit exclusions identified in 75-5-401(5), it is unlawful to carry on any of the following activities without a current permit from the department: (a) construct, modify, or operate a disposal system that discharges into any state waters;

(b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into any state waters; or discharge sewage, industrial wastes, or other wastes into any state waters.

This is a very short and incomplete summary of the act. You are encouraged to read the act. If you have questions about it please contact;

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